THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.14620 OF 2007

Dated: 10.07.2007

Between:

1. The Executive Engineer, I.B. Division (Irrigation)
   Khammam and others

..Petitioners

And

1. S. Damodar Rao and others.

.. Respondents.

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.14620 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners seeking to call for the records pertaining to the order of the tribunal, dated 15.12.2004 in O.A.No.1323 of 2000 and to set aside the same.

The respondents herein are the applicants before the tribunal. They filed the above O.A. against the petitioners herein challenging the proceedings of the Government in Memo No.2121420/Ser.VI.2/99-5, dated 1.12.1999 of the 5th petitioner-respondent and Memo No.Rc/ENC/S4/36681/99, dated 29.12.1999 of the 4th petitioner-respondent, whereunder the petitioners-respondents proceeded to recover the alleged excess amount paid due to wrong fixation of pay to the applicants.

The tribunal having observed that the action of the petitioners-respondents-authorities in proposing to initiate recovery proceedings under the provisions of the RR Act, is illegal, allowed the O.A. Having aggrieved by the same, the petitioners-respondents filed the present writ petition.

Heard and perused the material available on record.

It is the case of the petitioners that the tribunal has taken one sided view in this matter and the quantum of excess payment made due to erroneous pay fixation has to be recovered from the individuals and the Government is justified in recovering the excess amount and the applicants have no right to retain the excess amount paid to them and therefore, the order of the tribunal is liable to be set aside.

A perusal of the material on record goes to show that the excess amount was paid to the applicants due to the wrong committed in fixation of their pay by the authorities, but not on account of any misrepresentation or fault of the applicants. Therefore, for the wrong committed by the authorities, the applicants cannot be made liable. Having regard to the circumstances of the case, the tribunal while relying upon a decision reported in *Sahib Ram Vs. The state of Haryana and Others*[1]., has rightly held that the action of the petitioners-authorities in proposing to recover the excess amount is illegal, but however, it is made clear that the revision of pay effected prospectively cannot be held to be bad in law.

In view of the guidelines enunciated by the Apex Court in the above citation and in view of the nature of the proceedings, we have no hesitation to concur with the findings of the tribunal and we feel that there are no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 10.07.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.14620 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

Dated: 10.07.2007

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[1] JT 1995(1) SC 24.